

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Eugene Westmoreland,)
)
Plaintiff,) No.: 23-cv-1851
)
v.)
)
Cook County Sheriff Thomas Dart, et al.) Judge Tharp, Jr.
)
Defendants.)
)

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO FILE HIS REPLY IN SUPPORT
OF HIS MOTION FOR CLASS CERTIFICATION**

NOW COME Defendants COOK COUNTY SHERIFF THOMAS DART, and COOK COUNTY, a body politic and corporate, by and through their attorneys, Jason E. DeVore and Zachary G. Stillman, of DeVore Radunsky LLC, and in Response to Plaintiff's Motion for Extension of Time to File Reply in Support of Plaintiff's Motion for Class Certification, state as follows:

1. Plaintiff filed his Motion for Class Certification (ECF No. 6, 7.) on May 9, 2023.
2. Subsequently, on May 31, 2023, twenty-two days after his motion, Plaintiff first issued written discovery to Defendants.
3. On July 10, 2023, this court issued an amended briefing schedule for Plaintiff's Motion for Class Certification under which Defendants' Response in Opposition was due by July 17, 2023, and Plaintiff's Reply was due by August 2, 2023. (ECF No. 21.)
4. On July 27, 2023, Counsel for both parties were present at the status hearing in this matter, where the dates and deadlines were discussed in depth. This would have been the time for Plaintiff to bring up his need for an extension of time on the Motion for Class Certification.

5. On July 27, 2023, Defendants' Counsel communicated with Counsel for Plaintiff by email, wherein Plaintiff requested for an extension of time until "after defendants provide the updated discovery" on August 4, 2023, which Defendants opposed.
6. Defendants object to Plaintiff's request for extension of time until "after defendants provide the updated discovery" as it is an extension which is clearly predicated only on their desire to use the Defendants' supplemental responses in his reply.
7. The 7th Circuit has noted there to be a need to engage in "appropriate discovery before deciding whether to certify a class[.]" *Damasco v. Clearwire Corp.*, 662 F.3d 891, 897 (7th Cir. 2011).
8. Counsel for Plaintiff made a tactical decision in filing their Motion for Class Certification immediately and without prior issuance of written discovery. Plaintiff should not now benefit from an extension strictly so he can acquire further discovery from Defendants, especially considering Plaintiff very well could have simply waited until after the conclusion of this exchange of discovery to file his Motion. Plaintiff *jumped the gun* with his motion.
9. Under Rule 6(b), this Court may, for good cause, extend the time "[w]hen an act may or must be done." Fed. R. Civ. P. 6(b).
10. An extension of time so Plaintiff can have more ammunition for the motion he haphazardly filed without any evidence in the first place would not be good cause as intended by Rule 6(b).
11. Granting an extension of time for Plaintiff will prejudice Defendants, as they were not afforded the opportunity to draft their response in opposition to Plaintiff's Motion prior to the July 27, 2023, Status Hearing wherein the Court compelled further discovery responses from Defendants.

WHEREFORE, Defendants respectfully request that this Honorable Court enter an order

as follows:

1. Plaintiff's Motion for Extension of Time is denied;

Respectfully Submitted,

Defendants

By: /s/ Jason E. DeVore
Jason E. DeVore, One of the Attorneys
for Defendants

DEVORE RADUNSKY LLC

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that Defendants' Response in Opposition to Plaintiff's Motion for Extension of Time was filed on July 31, 2023, with the Northern District of Illinois ECF System, serving a copy to all parties.

/s/Zachary Stillman
Zachary Stillman